



CDSS

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DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

May 17, 2018

ALL COUNTY INFORMATION NOTICE NO. I-30-18

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CHIEF PROBATION OFFICERS  
ALL INDEPENDENT LIVING PROGRAM MANAGERS  
ALL INDEPENDENT LIVING PROGRAM COORDINATORS  
ALL FOSTER CARE MANAGERS  
ALL TITLE IV-E AGREEMENT TRIBES  
ALL TRANSITIONAL HOUSING COORDINATORS

SUBJECT: SB 731 FREQUENTLY ASKED QUESTIONS (FAQ)

REFERENCE: SENATE BILL (SB) 731 (STATUTES OF 2015, CHAPTER 805); [ALL COUNTY LETTER \(ACL\) NO. 17-64 DATED JULY 19, 2017](#)

The purpose of this All County Informational Notice (ACIN) is to inform county child welfare agencies, probation departments, tribal agencies, foster family agencies, licensed resource families, and other interested stakeholders of the attached FAQ “SB 731 Frequently Asked Questions.” The California Department of Social Services (CDSS) in collaboration with the Continuum of Care (CCR) Sexual Orientation and Gender Identity and Expression (SOGIE) Advisory Group composed a FAQ to provide additional information to consider when placing transgender youth and nonminor dependents (NMDs) in out-of-home care.

The FAQ builds upon [ACL 17-64](#) which provided information on the changes to placement practices for children, youth and NMDs in out-of-home care resulting from SB 731, which specifies that all youth in foster care also have the right to be placed in their foster care placements according to their gender identity, not the gender listed in their case or court records.

The attached FAQ can also be found on the CDSS website on the Community Care Licensing, Children’s Residential Program Page at Community Care Licensing’s Technical Support Program Resource Guides for Licensees.

**Contact Information**

Questions concerning the gender identity placement policy should be directed to the Concurrent Planning Policy Unit at (916) 651-1858 or [concurrentplanningpolicy@dss.ca.gov](mailto:concurrentplanningpolicy@dss.ca.gov). Questions regarding changes to CCLD licensing regulations should be directed to (916) 651-5380, or contact your local CCLD office.

Sincerely,

***Original Document Signed By:***

VALERIE EARLEY, Chief  
Child and Youth Permanency Branch  
Children and Family Services Division

**Attachment**

### **SB 731 Frequently Asked Questions**

**Q1: What rights do transgender youth or non-minor dependents (NMD) have when they are placed in an out-of-home foster care placement?**

A1: Transgender foster youth and NMDs have the same rights as all other foster youth and NMDs, including the right to live in a safe, healthy, and comfortable home where they are treated with respect. Foster youth and NMDs also have the right to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court or child welfare record.

All foster children, minors and NMDs, either under the jurisdiction of the county child welfare agency or probation department, have the right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. For a full list of rights see Welfare & Institutions Code § 16001.9.

**Q2: How can a caregiver ensure the youth/NMD is being treated with respect?**

A2: The caregiver should call the youth/NMD by their chosen name and pronoun. The youth/NMD may express their gender identity through their clothing and grooming and the caregiver should allow the youth/NMD to shop for items consistent with their gender expression. The caregiver may not force the youth/NMD to conform through dress, pronoun usage, customs, room assignments etc. to the gender in their case or court record if it is different than how they perceive themselves. Like other health care services, the caregiver should ensure the youth/NMD has access to gender-affirming medical and behavioral health services.

**Q3. Are there required trainings for caregivers and social workers/probation officers?**

A3. Transgender youth/NMDs are also entitled to caregivers and social workers/probation officers who have received instruction on best practices for providing affirming care to lesbian, gay, bisexual, and transgender youth in out-of-home care. Refer to [Program Information Notice \(PIN\) 17-12-CRP](#) for additional information on the Foster Care Cultural Competency Regulations.

**Q4: What things should a caregiver in a licensed facility, licensed or certified home, or resource family consider when assessing the sharing of bedrooms by transgender youth and NMDs placed in their facility or home?**

A4: The caregiver must consider the health, safety and compatibility of all children sharing a bedroom, as specified in applicable regulations, written directives, or interim licensing standards. When considering compatibility, a caregiver shall consult with children in their care, in an age and developmentally appropriate manner, regarding the child's sexual orientation and gender identity and what information the child wishes to disclose and to whom. Caregivers shall not disclose information about the child's sexual orientation and/or gender identity against the child's wishes, unless compelled to do so by law or court order.

Caregivers should consult with the social workers for each of the children placed with them to ensure they have adequate information regarding all of the children in their care, and consult with each child individually in an age appropriate manner to determine their strengths, needs and preferences.

**Q5: What steps should a social worker/probation officer take when placing children and NMDs in a licensed facility, licensed or certified home, or with a resource family?**

A5: Foremost, child welfare personnel should have instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care. The most important source of information about a child's/NMD's gender identity is the child/NMD. Their capacity and willingness to discuss their gender identity will vary.

When placing foster children and NMDs based on their gender identity rather than the gender listed in their case or court records, the social worker/probation officer should consider if the current placement is still appropriate or if there is a need to be accommodated in their out-of-home placement (i.e. new room or roommate, a change of placement, etc.). It is important to note that placement according to gender identity is the choice of the child/NMD, not a requirement. If the child or NMD is comfortable in their current placement and/or their current room situation, the child/NMD is allowed to remain in the placement where he or she feels accepted, safe and comfortable. If a change of placement is necessary, the social worker/probation officer should obtain adequate information regarding the potential resource family, all of the children in potential resource home, determine if the placement is appropriate, how, and to whom information regarding the transgender child or NMDs may be shared. Before a change in placement, the information gathered by the social worker/probation officer regarding the identified prospective placement should be shared with the Child and Family Team

(CFT) to ensure the placement change meets the child/ NMD's specific health, developmental, behavioral and educational needs.

**Q6: Can a caregiver disclose information about a child or NMD's sexual orientation or gender identity with other children or NMDs in the home without the child or NMD's permission?**

A6: Generally, no. The caregiver shall not disclose information about the child or NMD's sexual orientation or gender identity against their wishes unless compelled to do so by law or court order. Disclosure could subject the child or NMD to a range of physical and emotional harm.

**Q7: Can a caregiver disclose information about a child or NMD's sexual orientation or gender identity with teachers, friends, or other collaterals without the child or NMD's permission?**

A7: Generally, no. Although it may be helpful in some situations to talk with third parties about a child's gender identity, the caregiver may not disclose information about the child or NMD's sexual orientation or gender identity against their wishes unless compelled to do so by law or court order. The social worker/probation officer can work with the child to weigh the pros and cons of sharing the information and focus on how the specific disclosure would help or harm the child, and not on the concerns or interests of third parties.

**An additional resource for information on Transgender and Gender Nonconforming Children can be found on [Community Care Licensing's Technical Support Program Resource Guides for Licensees](#) page.**